

REMARKS

37 CFR § 1.131 Declaration of Prior Invention

In the previous Office action response, the Applicants submitted a 37 CFR 1.131 Declaration of Prior Invention, swearing behind the unclaimed portion of the Giobbi reference. Accordingly, the unclaimed portion of the Giobbi reference is not prior art to the claimed invention of the present application, since the claimed invention was invented before the priority date of the Giobbi reference (February 7, 2001). Specifically, the cited Giobbi publication (2002/0107072) issued as U.S. Patent No. 6,749,510. Since the disclosure cited by the Examiner in the current rejection is not claimed in the Giobbi patent, this disclosure is subject to a Declaration of Prior Invention under 37 CFR § 1.131 (a)(1) and (2). The 37 CFR 1.131 Declaration of Prior Invention appears to have been overlooked, since it was not addressed in the Office action of October 15, 2007.

Accordingly, since the Giobbi reference is not prior art to the claimed invention, Applicants respectfully submit that the 35 U.S.C. § 103(a) rejection of claims 35-45 and 48 has been overcome. Applicants' representative spoke with the Examiner by teleconference on October 31, 2007, confirming the declaration had been received and overlooked, but would now be reviewed.

CONCLUSION

Applicants have made an earnest and *bona fide* effort to clarify the issues before the Examiner and to place this case in condition for allowance. Reconsideration and allowance of all of claims 30-45 and 48 is believed to be in order, and a timely Notice of Allowance to this effect is respectfully requested.

The Commissioner is hereby authorized to charge the fees indicated in the Fee Transmittal, any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17, or to credit any overpayments, to Deposit Account No. 194293, Deposit Account Name STEPTOE & JOHNSON LLP.

Should the Examiner have any questions concerning the foregoing, the Examiner is invited to telephone the undersigned attorney at (310) 734-3200. The undersigned attorney can normally be reached Monday through Friday from about 9:00 AM to 6:00 PM Pacific Time.

Respectfully submitted,

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